

## **ADMINISTRATION**

### **RULE 1: DIVISIONS OF COURT**

DIVISION I: The Circuit Judge or successor elected at the November 7, 1978 General Election.

DIVISION II: The Circuit Judge or successor elected at the November 2, 1976 General Election.

DIVISION III: The Associate Circuit Judge sitting in the Cape Girardeau County Courthouse at Jackson.

DIVISION IV: The Associate Circuit Judge sitting in the Common Pleas Courthouse at Cape Girardeau.

DIVISION V: The Associate Circuit Judge elected in Bollinger County.

DIVISION VI: The Associate Circuit Judge elected in Perry County.

### **RULE 2: HOURS AND TERMS OF COURT**

#### **2.1 HOURS OF COURT**

All sessions of court shall begin at 9:00 a.m. except pre-trial conferences for jury trials shall begin at 8:30 a.m. unless otherwise directed by the Court.

For the purpose of filing papers, the Clerk's office is deemed always open. The following office hours are established for the various Clerks' offices:

#### **Bollinger County Courthouse:**

CIRCUIT CLERK:

8:00 a.m. - 4:00 p.m., Monday -Friday

DIVISION V:

8:00 a.m. - 4:00 p.m., Monday – Friday

#### **Cape Girardeau County Courthouse at Jackson:**

CIRCUIT CLERK:

8:00 a.m. - 4:30 p.m. Monday - Friday

DIVISION III:

8:30 a.m. - 4:30 p.m. Monday - Friday

**Common Pleas Courthouse at Cape Girardeau:**

CIRCUIT CLERK:

8:00 a.m. - 4:30 p.m. Monday - Friday

DIVISION IV:

8:00 a.m. – 4:30 p.m.

Monday - Friday

**Perry County Courthouse:**

CIRCUIT CLERK AND DIVISION VI:

8:00 a.m. - 5:00 p.m. Monday – Friday

**2.2 TERMS OF COURT**

**Bollinger County:** Divisions I and II shall have two terms of court, commencing on the third Friday in March and the third Friday in September.

**Cape Girardeau County:** Divisions I and II shall have four terms of court, commencing on the second Mondays in February, May, August, and November.

**Perry County:** Divisions I and II shall have two terms of court, commencing on the first Wednesday in January and the first Wednesday in July.

**2.3 LAW DAYS**

The schedule of Laws Days shall be posted in the Clerk's office for Division I and II in each County.

**2.4 PARTICULAR MATTERS ON PARTICULAR DAYS**

An attorney desiring to have a matter heard on a law day must request a setting. The request shall be made to the appropriate clerk's office seven (7) days in advance of the law day. The clerk shall prepare a schedule for the law day, furnishing a copy thereof to each attorney who has a matter to be heard. Discretion is vested in the judge for hearing any matter on a day other than as above specified.

**RULE 3: PLEADINGS**

All pleadings shall conform with Missouri Rules of Court and captioned as set out in Appendix A.

## **RULE 4: FILING OF CASES**

### **4.1 CRIMINAL CASES**

Cape Girardeau County: There shall be a central filing room in the office of the circuit clerk at the courthouse in Jackson, where all pleadings, motions, and papers related thereto shall be filed in all criminal cases.

Bollinger County: The following matters should be filed as designated: All complaints shall be filed with the Division V Clerk. All indictments shall be filed in the office of the circuit clerk.

Perry County: The following matters should be filed as designated: All complaints, other than for municipal ordinance violations from the City of Perryville, shall be filed with the Division VI Clerk. All indictments shall be filed in the office of the circuit clerk.

### **4.2 CIVIL CASES**

Bollinger County: All pleadings, motions, and papers in civil cases not exceeding \$25,000.00 may be filed with the Circuit Clerk or the Division V Clerk. All pleadings, motions, and papers in civil cases exceeding \$25,000.00, and all other cases not designated for filing in Division V, shall be filed in the office of the Circuit Clerk.

Cape Girardeau County: All pleadings, motions, and papers in civil cases may be filed with the office of the Circuit Clerk located in Cape Girardeau or Jackson. However, the case file shall be maintained by the Circuit Clerk in Cape Girardeau, unless otherwise ordered by the Court.

Perry County: All pleadings, motions, and papers in civil cases not exceeding \$25,000.00 may be filed with the Circuit Clerk or the Division VI Clerk. All pleadings, motions, and papers in civil cases exceeding \$25,000.00, and all other cases not designated for filing in Division VI, shall be filed in the office of the Circuit Clerk.

### **4.3 PROBATE CASES**

Bollinger County: All pleadings, motions, claims, and papers in a probate matter shall be filed and maintained in the office of the Division V Clerk.

Cape Girardeau County: All pleadings, motions, claims, and papers in a probate matter shall be filed and maintained in the office of the Circuit Clerk in Cape Girardeau.

Perry County: All pleadings, motions, claims, and papers in a probate matter shall be filed and maintained in the office of the Division VI Clerk.

#### **4.4 JUVENILE CASES**

Bollinger and Perry Counties: All pleadings, motions, and papers in juvenile cases shall be filed and maintained in the office of the Circuit Clerk.

Cape Girardeau County: All pleadings, motions, and papers in juvenile cases shall be filed and maintained in the office of the Circuit Clerk in Cape Girardeau.

#### **4.5 SMALL CLAIMS CASES**

Bollinger County: All pleadings, motions, and papers in a small claims case shall be filed and maintained in the office of the Division V Clerk.

Cape Girardeau County: All pleadings, motions, and papers in a small claims case may be filed in the office of the Circuit Clerk of Cape Girardeau or Jackson. However, the case file shall be maintained by the Circuit Clerk in Cape Girardeau unless otherwise ordered by the Court.

Perry County: All pleadings, motions, and papers in a small claims case shall be filed and maintained in the office of the Division VI Clerk.

#### **4.6 MUNICIPAL CASES**

Municipal ordinance violation cases shall be filed with the clerk of the appropriate municipal division when that municipality has made provisions for a municipal judge as provided by law.

Bollinger County: Municipal ordinance violation cases of any municipality in the county for which a municipal judge is not provided by the municipality, shall be filed in the office of the Division V Clerk.

Cape Girardeau County: Municipal ordinance violation cases of any municipality in the county for which a municipal judge is not provided by the municipality, shall be filed in the office of the Division III Clerk.

Perry County: Municipal ordinance violation cases of any municipality in the county for which a municipal judge is not provided by the municipality, shall be filed in the office of the Division VI Clerk.

### **RULE 5: FILING FEES, DEPOSITS, AND COSTS**

#### **5.1 FILING FEE AND COST DEPOSIT**

In all cases filed in this circuit there shall be deposited with the appropriate clerk, for which a receipt shall be given, the following sums:

**Circuit Divisions:**

All original civil cases:	\$160.00
Each additional defendant:	\$ 20.00
Publication requirement (additional)	\$200.00
Appeals	\$ 70.00
Adoptions:	\$210.00
GAL Fee	\$100.00
Additional Counts (each)	\$100.00
Publication Fees	\$200.00

Fee for costs or judgments not paid within 30 days from date of judgment, including criminal cases.	\$ 25.00
Guardian ad Litem deposit as required by the Court in Child Protection Cases in an amount up to	\$300.00
Objections to Relocation in Domestic Cases – deposit for service	25.00
Registration of Foreign Judgment – Circuit Civil	\$102.00
Registration of Foreign Judgment – Domestic	\$100.00

**Associate Divisions:**

All original civil cases:	\$100.00
Each additional defendant:	\$20.00
Small Claims:	\$37.00
Plus cost of service to be paid in advance:	
Each additional summons for additional defendants;	
Each alias and each 3 <sup>rd</sup> -party Defendant:	N/C
Mail:	\$7.92
Sheriff:	\$29.00
Request for Trial De Novo:	\$45.00
(Amended by Order dated 08/27/03, effective 08/28/03)	

**Municipal Divisions:**

Request for Trial de Novo	\$37.00
(Amended by Order dated 02/27/04, effective immediately)	

**Probate Divisions:**

In Guardian and/or Conservatorship estates, such deposit as the Court deems appropriate to satisfy the court costs and guardian ad litem fees.

**5.2 COSTS (No local rule)**

**5.3 WITNESS FEES**

In-State Witness Fees will be paid at the rate of \$25.00 per day and \$.475/mile.  
Out-of-State Witness Fees will remain the same: \$25.00 per day and \$.10/mile.

**5.4 WAIVER OF FEES**

If a party is unable to pay the filing fee and deposit, a written application to proceed as a poor person may be filed. The application shall be accompanied by a Statement of Income and Expenses, as well as a Statement of Property. The application shall be brought to the attention of the judge for consideration.

**5.5 MOTION FOR SECURITY FOR COSTS (No local rule)**

**5.6 SPECIAL PROCESS SERVERS**

The Clerk of the Circuit Court is authorized to appoint special process servers as requested by a party, however, no cost for same shall be payable by the county.

**RULE 6: ASSIGNMENT OF JUDGES, CASES, AND TRANSFER OF CASES**

**6.1 ASSIGNMENT TO ASSOCIATE CIRCUIT JUDGE**

**DIVISION III:**

All cases of misdemeanor or infraction, except if a felony charge is also pending against the same defendant out of the same incident and that defendant is required to appear in either Division I or II, the misdemeanor/infraction charge(s) shall be automatically assigned to the Division that is assigned the felony charge(s).

Municipal ordinance violation cases of any municipality in the county for which municipality no municipal judge is provided;

Preliminary hearings in felony cases; All trials de novo from the municipal division of the City of Jackson;

Domestic relations cases filed in Cape Girardeau County assigned by the Circuit Clerk pursuant to a random selection process ordered by the Presiding Judge;

All trial de novo proceedings from the municipal division of the City of Cape Girardeau;

Such other cases or classes of cases as the Presiding Judge may designate.

**DIVISION IV:**

All probate proceedings filed in Cape Girardeau County;

All juvenile cases for the 32nd Judicial Circuit except as otherwise set out herein;

All actions filed in Cape Girardeau County pursuant to Chapter 454, 455, Chapter 210, Section 208.040, and Section 452.350 and following, commonly referred to as Title IV-D and URESA cases; Section 660.250 RSMo and following; Section 491.675 RSMo and following; and all cases under Chapter 517 RSMo;

All “Small Claims” cases as provided in Sections 482.300 through 482.365 filed in Cape Girardeau County;

Such other cases or classes of cases as the Presiding Judge may designate.

**DIVISION V:**

All cases of misdemeanor or infraction, except if a felony charge is also pending against the same defendant out of the same incident and that defendant is required to appear in either Division I or II, the misdemeanor/infraction charge(s) shall be automatically assigned to the Division that is assigned the felony charge(s).

Municipal ordinance violation cases of any municipality in the county for which municipality no municipal judge is provided;

Preliminary hearings in felony cases;

All probate proceedings filed in Bollinger County;

All domestic relations cases filed in Bollinger County;

All juvenile cases filed in Bollinger County by the Juvenile Officer or Deputy Juvenile Officer;

All actions filed in Bollinger County pursuant to Chapter 454, Chapter 455, Chapter 210, Section 208.040, and Section 452.350 and following, commonly referred to as Title IV-D and URESA cases, Section 660.250 RSMo and following, and Section 491.675 and following;

All "Small Claims" cases as provided in Sections 482.300 through 482.365 filed in Bollinger County;

Domestic relations cases filed in Cape Girardeau County assigned by the Circuit Clerk pursuant to a random selection process ordered by the Presiding Judge;

Such other cases or classes of cases as the Presiding Judge may designate.

#### DIVISION VI:

All cases of misdemeanor or infraction, except if a felony charge is also pending against the same defendant out of the same incident and that defendant is required to appear in either Division I or II, the misdemeanor/infraction charge(s) shall be automatically assigned to the Division that is assigned the felony charge(s).

Municipal ordinance violation cases of any municipality in the county for which municipality no municipal judge is provided;

Preliminary hearings in felony cases;

All domestic relation cases filed in Perry County;

All juvenile cases filed in Perry County by the Juvenile Officer or Deputy Juvenile Officer;

All City of Perryville municipal division cases in which the municipal judge has been disqualified by one of the parties;

All trials de novo from the municipal division of the City of Perryville;

All probate proceedings filed in Perry County;

All actions filed in Perry County pursuant to Chapter 454, Chapter 455, Chapter 210, Section 208.040, and Section 452.350 and following, commonly referred to as Title IV-D and URESA cases, Section 660.250 RSMo and following, and Section 491.675 and following;

All "Small Claims" cases as provided in Sections 482.300 through 482.365 filed in Perry County;

Domestic relations cases filed in Cape Girardeau County assigned by the Circuit Clerk pursuant to a random selection process ordered by the Presiding Judge;

Such other cases or classes of cases as the Presiding Judge may designate.

(6.1 Amended 6/28/01)

### **6.1.1 ASSIGNMENT OF DIVISION IV CONFLICT CASES**

Any case that would ordinarily be assigned to Division IV by local court rule shall be assigned to a different judge by the Circuit Clerk upon the filing of any pleading or entry of appearance by any relative of the Division IV judge. For all probate and juvenile cases in Cape Girardeau County, the case shall be assigned by the Circuit Clerk to one of the circuit judges pursuant to a random selection process ordered by the Presiding Judge. For all other cases in Cape Girardeau County, the case shall be assigned by the Circuit Clerk to the Division III judge.  
(Adopted 11.06.02)

## **6.2 ASSIGNMENT BY LOCAL COURT RULE OR ORDER**

The Associate Circuit Judges shall have concurrent jurisdiction with the Circuit Judges as provided by statute and Supreme Court Rule.

### **6.2.1 DOMESTIC RELATIONS CASES**

Any Circuit or Associate Circuit Judge may hear any domestic relations case, i.e. those types of cases designed as such by the Office of State Courts Administrator, in any county within the Circuit without further assignment.

Once a Circuit Judge or Associate Circuit Judge has been assigned to a domestic relations case that judge shall remain the assigned judge for all future matters arising in the case, including all proceedings under Chapter 454. However, if no pre-trial orders have been issued by the assigned judge, at the request of the parties in writing, any other Circuit or Associate Circuit Judge may hear such case without further assignment.

### **6.2.2 STIPULATION FOR PLEA**

If immediately after conducting a preliminary hearing or accepting a waiver of preliminary hearing, the Prosecuting Attorney, Defense Counsel, and the Defendant all sign a stipulation: a) requesting that the Associate Circuit Judge take the felony plea, and b) waiving in writing all objections thereto, then said Associate Circuit Judge may take said felony plea without further assignment. If sometime after the Preliminary Hearing stage the Prosecuting Attorney, Defense Counsel, and the Defendant all sign a stipulation: a) requesting that an Associate Circuit Judge take the felony plea, and b) waiving in writing all



objections thereto, then said Associate Circuit Judge may take said felony plea upon assignment by the Presiding Judge.

### **6.2.3 ASSIGNMENT UPON DISQUALIFICATION OF BOTH CIRCUIT JUDGES**

Pursuant to Supreme Court Rule 51.05(e)(2), if the presiding judge is disqualified from hearing a case, the case shall be transferred to the other circuit judge, who may assign the case to himself or another judge within the circuit. If both circuit judges have been disqualified from hearing a case, an assignment shall be requested from the Supreme Court.

(Rule 6.2 amended 6/28/01)

### **6.3 SPECIAL ASSIGNMENT**

The Presiding Judge may assign judges to hear such cases or classes of cases as the Presiding Judge may designate, and to assign judges to divisions. Such assignment authority shall include the authority to authorize particular Associate Circuit Judges to hear and determine cases or classes of cases in addition to those authorized in Section 478.225 RSMo. By this subsection the Presiding Judge shall not, however, be authorized to make the following assignments: a) Assign a municipal judge to hear any case other than to initially hear a municipal ordinance violation case of another municipality which makes provisions for its own municipal judge; b) Assign a case to a judge contrary to the provisions of Supreme Court Rules.

### **6.4 ASSIGNMENT TO CIRCUIT JUDGES**

Divisions I and II: Cases other than those specified above shall be assigned by the Circuit Clerk to a division presided over by a Circuit Judge using a random selection process ordered by the Presiding Judge, except as follows:

- a. Any request for post-judgment relief, motions, to modify, post-trial motions concerning execution and garnishment, or motions for post-conviction relief shall be assigned to the division of the judge who rendered judgment.
- b. Criminal cases shall be assigned to the division who next holds a law day. All criminal charges against one defendant shall be assigned to the same division.
- c. Adoption and Transfer of Custody Cases.

Notwithstanding any provision of these rules for automatic assignment of cases or automatic transfer of judges, or reassignment of cases or transfer of judges by a circuit judge or associate circuit judge, the Presiding Judge may assign cases and transfer judges within the limitations of the law as the expedient administration of justice requires.

(6.4 Amended effective 2/10/95)

### **6.5 MUNICIPAL DIVISION ASSIGNMENT**

The judge of a municipal division may hear and determine only cases that involve the violation of a municipal ordinance within the municipality for which the judge serves.

In those municipalities which have elected to provide their own municipal court as provided by law, if any municipal judge becomes disqualified to act, other than pursuant to Supreme Court Rules, the case shall automatically be assigned to another qualified municipal judge as selected by that municipality.

#### **6.6 ABSENCE OF CIRCUIT OR ASSOCIATE JUDGE**

In the absence of a Circuit Judge of any division, any other Circuit Judge may, during such absence, sit as the judge of that division and perform all the duties of the absent judge.

In the absence of a Circuit or Associate Circuit Judge of any division, any other Associate or Circuit Judge may, during such absence, execute any writs that need to be acted upon prior to the return of the absent judge.

In the absence of the Associate Circuit Judge of any division, any other Associate Circuit Judge or Circuit Judge may, during such absence, sit as the judge of that division and perform all the duties of the absent judge.

#### **6.7 ABSENCE OF PRESIDING JUDGE**

In the event the Presiding Judge is, from time to time, absent from the circuit, or is disabled, or disqualified from acting in the capacity of Presiding Judge in any case or matter whatsoever; then, during any such period of absence or disability or disqualification, the other Circuit Judge shall be the Acting Presiding Judge and may exercise the responsibilities prescribed by law for Presiding Judges. Anything herein to the contrary notwithstanding, this rule shall not be interpreted as intending to apply to the type of disqualification referred to in sub-paragraph 1 of Section 478.240 RSMo and in Article 5, Section 24 of the Missouri Constitution.

### **RULE 7: WITHDRAWAL OF PAPERS FROM CLERKS' OFFICE**

#### **7.1 WHEN ALLOWED**

No official files of the Circuit Court or any division thereof shall be removed from said office except in the custody of employees of the Circuit Court.

## **7.2 DUPLICATING POLICY**

Requests for copies of Court records should be directed to the clerk in charge of said records. No charge shall be made for copies of documents furnished to any city, county, state agency, or state department.

Administrative copies:	\$ .10 per page, plus \$.20 per minute
Court Records:	\$1.00 per page
Certified or Authenticated: (per document):	per statute.

## **RULE 8: DOCKETING OF CASES**

### **8.1 DOMESTIC RELATIONS CASES**

Upon the filing of a Domestic Relations case, the Circuit Clerk or Division Clerk shall schedule the case for a status conference with the Court on a Law Day approximately 90 days from the date of filing. The Clerk shall docket the entry and notify counsel and pro se parties of the docket setting.

### **8.2 CIRCUIT CIVIL CASES**

Upon the filing of a Circuit Civil case, the Circuit Clerk or Division Clerk shall schedule the case for a status conference with the Court on a Law Day approximately 120 days from the date of filing. The Clerk shall docket the entry and notify counsel and pro se parties of the docket setting.

### **8.3 PUBLICATION OF DOCKETS (No Local Rule)**

### **8.4 NON-ISSUANCE OF SUMMONS OR NON-EST RETURN**

Except for good cause shown, a case shall be dismissed without prejudice for failure to prosecute on the first Court date if summons has not been served on a party and no entry of appearance has been filed.

### **8.5 NO GENERAL CONTINUANCES**

Every case scheduled on a Law Day or other docket day shall be set for trial or continued to another Law Day or docket day. No general continuances are allowed.

### **8.6 DISMISSAL DOCKET**

The Court may, at its discretion, schedule dismissal dockets for any cases in which insufficient activity has been noted on the docket sheet for six (6) months. Unless good cause is shown why the case should not be dismissed, the Court shall dismiss the case without prejudice for failure to prosecute. No case shall be dismissed by the Court without an appropriate docket entry and prior written notice to counsel of record.

(Rule 8 Amended 3/98)

## **RULE 9: COURTROOMS AND PROCEDURE**

### **9.1 ASSIGNMENT OF COURTROOMS**

#### **BOLLINGER COUNTY:**

Division I and II: The courtroom in Marble Hill is assigned to Division I and II except for each Wednesday when it is assigned to Division V.

#### **CAPE GIRARDEAU COUNTY:**

Division I: The circuit court courtroom in Jackson is assigned to Division I for a one week period, commencing on the first and third Mondays of the month. The circuit court courtroom in Cape Girardeau is assigned to Division I for a one-week period, commencing on the second and fourth Mondays of the month.

Division II: The circuit court courtroom in Cape Girardeau is assigned to Division II for a one week period commencing on the first and third Mondays of the month. The circuit courtroom in Jackson is assigned to Division II for a one-week period commencing on the second and fourth Mondays of the month.

Division III: The non-jury courtroom in Jackson is assigned to Division III.

Division IV: The non-jury courtroom in Cape Girardeau is assigned to Division IV.

Division V: The Division V courtroom in Jackson is assigned to Division V.

#### **PERRY COUNTY:**

The second floor courtroom in Perryville is assigned to Division I and II. The Division VI courtroom on the first floor is assigned to Division VI.

Division III and IV, V, and VI: In any month that has a fifth Monday in it, any division may set cases in the circuit court courtroom at Jackson and Cape Girardeau by scheduling the use thereof through the Presiding Judge. Use of the circuit court courtroom at other times shall be subject to the schedule of the circuit judge to whom the courtroom is assigned and arrangements for its use shall be made through that Division.

### **9.2 PLACE OF HEARING (No local rule)**

### **9.3 USE OF COUNSEL TABLE (No local rule)**

### **9.4 COURTROOM DECORUM AND DRESS**

1. All attorneys and court officials shall wear appropriate professional attire while in attendance upon the Court. For male attorneys appropriate professional attire shall include a suitable coat and tie. Judicial discretion may be exercised otherwise in extreme situations.

2. Attorneys shall advise their clients and witnesses of the formalities of the Court, including attire befitting a court appearance and seek their full cooperation thereby avoiding embarrassment to the Court and public as well.  
(Adopted 08.10.06)

**RULE 10: COURT REPORTERS AND COMPENSATION FOR SAME** (See Rule 23)

**RULE 11: RECORDING OF JUDICIAL PROCEEDINGS** (No local rule)

**RULE 12: MONIES PAID INTO COURT** (No local rule)

**RULE 13: COMMUNICATIONS WITH COURT**

**13.1 ORAL COMMUNICATION WITH THE COURT**

The Court will not permit interviews, arguments, or communications where all interests which may be affected thereby are not represented except in cases where provision is made by law for ex parte application. Any such attempt will be summarily terminated by the Court.

**13.2 WRITTEN COMMUNICATIONS WITH THE COURT**

Copies of all written materials and documents filed in any pending case file and copies of all written communications between one or more parties, counsel, Clerk or Judge, hereinafter referred to as "the Court", shall be provided to opposing counsel in the same method of transmission and delivery used to communicate with the Court.

By way of illustration, if a Motion is faxed to the Court, a copy of this Motion shall be faxed to opposing counsel on the same date and at the same approximate time as the communication made to the Court. If the same method of transmission and delivery of the communication in question is not available, the Court and opposing counsel should be clearly advised by the party submitting the faster communication to the Court of that fact and every reasonable effort shall be made to timely deliver the information to the opposing counsel as soon as practical.

Nothing contained herein shall undermine any Rule of Professional Responsibility regarding ex parte communications with the Court about the facts of a case.

**GENERAL RULES**

**RULE 21: ATTORNEYS**

**21.1 RESOLUTION OF CONFLICTING TRIAL SETTINGS** (No local rule)

**21.2 ENTRIES OF APPEARANCE** (No local rule)

**21.3 CONDUCT OF ATTORNEYS** (No local rule)

#### **21.4 WITHDRAWAL OF ATTORNEYS**

An attorney requesting to withdraw shall file a written motion requesting leave of court to do so. A copy of the motion and notice shall be served upon all parties, including the client from whose employ the attorney is seeking leave to withdraw, in the manner provided by Supreme Court Rule 43.01. The last known address of the client shall be plainly set out in the motion or the certificate of service thereon.

The attorney must appear in open Court and call up the motion at the time specified in the notice. If the case is a criminal case, it shall be the duty of the client to appear in person. If the client fails to appear, and if the attorney is granted leave to withdraw, the attorney shall immediately notify his former client by letter of the attorney's withdrawal and shall send a copy of the letter to the clerk. Such letter shall advise the former client of any scheduled Court proceedings or pleading deadlines in the case.

#### **21.5 FAILURE OF ATTORNEYS TO ANSWER DOCKET CALL** (No local rule)

#### **21.6 APPOINTMENT OF ATTORNEYS** (No local rule)

#### **21.7 AGREEMENT OF ATTORNEYS** (No local rule)

#### **21.8 ADVICE TO CLIENTS AND WITNESSES OF COURTROOM PROCEDURES** (No local rule)

### **RULE 22: APPOINTMENT OF GUARDIAN AD LITEM**

Whenever a guardian ad litem is appointed by the Court pursuant to statute, rule, or motion, the guardian ad litem shall abide by the standards as adopted by the Missouri Supreme Court which are as follows:

#### **STANDARDS WITH COMMENTS FOR GUARDIANS AD LITEM**

**(a) Standard 1.0 Appointment of Guardian ad litem.** Only a lawyer licensed by the Supreme Court of Missouri shall be appointed by the Court to act as a guardian ad litem for a child. The guardian ad litem in a juvenile division proceeding shall be appointed upon the filing of an Order of Protective Custody or the filing of a petition and in a domestic relations division proceeding shall be appointed not later than the first proceeding at which a guardian ad litem is required by law and shall remain involved until the pending action in which the guardian ad litem is appointed is concluded or as otherwise ordered by the Court.

\* \* \*

**COMMENT:** The Court may appoint a lawyer to serve as guardian ad litem in accordance with Missouri law in juvenile matters, family court matters, and domestic relations matters, as set forth in chapters 210, 211, 452, 453 and 455 RSMO.

The Court will make an effort to appoint the same guardian ad litem in all proceedings involving the same family.

**(b) Standard 2.0 Independent Judgment of Guardian ad litem.** A guardian ad litem shall be guided by the best interests in the child and shall exercise independent judgment on behalf of the child in all matters.

\* \* \*

**COMMENT:** Although the parties are interested in the child's well-being, they are not necessarily focused on the best interest of the child. The guardian ad litem, therefore, (1) must recommend only what is in the best interests of the child on each issue, and (2) must maintain an objectivity that preserves a clear focus on the child's best interests. The roles of a guardian ad litem and a lawyer for the child are different and must be clearly distinguished. A lawyer guardian ad litem is not the lawyer for the child and, therefore, advocates the best interests of the child rather than merely representing the child's preferences.

**(c) Standard 3.0 Faithful Performance of Duties.** The Court shall assure that the guardian ad litem maintains independent representation of the interest of the child. The Court shall require that the guardian ad litem perform their duties faithfully and diligently and, upon failure to do so, shall discharge the guardian ad litem and appoint another.

\* \* \*

**COMMENT:** The guardian ad litem should relate to the child according to the child's stage of development and understand the child's sense of time in relation to his or her age. The guardian ad litem shall, when appropriate, conduct regular face-to face meetings with the child, which allow the guardian ad litem to observe the child's physical, mental, social, educational and familial well-being and to form opinions concerning the underlying cause of any developmental disturbances the child may exhibit. The guardian ad litem shall not diagnose or work therapeutically with the child, but regular, face to face contact will ensure informed observations when conferring with other specialists.

**(d) Standard 4.0 Guardian ad litem Access to Child.** The guardian ad litem shall not be unduly restricted in access to the child by any agency or person. The guardian ad litem should meet with the child in the child's placement as often as necessary to determine that the child is safe and to ascertain and represent the child's best interests.

\* \* \*

**COMMENTS:** Every child should have a guardian ad litem who is objective and independent and aware of and knowledgeable about the child's particular situation.

**(e) Standard 5.0 Guardian ad litem Access to Reports and Records.** Unless otherwise provided by law, the guardian ad litem shall be provided, upon request, with all reports relevant to the case, made to or by any agency or any person and, shall have access to all relevant records of such agencies or persons related to the child or the child's family members or placements of the child.

\* \* \*

**COMMENTS:** Except as otherwise provided by law, the guardian ad litem must have complete access to all information related to the child and the child's situation. See 210.160.2, RSMO.

**(f) Standard 6.0 Confidentiality.** A guardian ad litem shall observe all statutes, rules and regulations concerning confidentiality. A guardian ad litem shall not disclose information, or participate in the disclosure of information, relating to an appointed case to any person who is not a party to the case, except as necessary to perform the guardian ad litem duties or as may be specifically provided by law.

\* \* \*

**COMMENT:** The guardian ad litem shall comply with all appropriate codes of ethics and conduct regarding confidentiality.

**(g) Standard 7.0 The Court Process.** The guardian ad litem will review the progress of a child's case through the court process and advocate for timely hearings.

**(h) Standard 8.0 Relating the Court Process to the Child.** The guardian ad litem will explain, when appropriate, the court process, the role of the guardian ad litem and assure that the child is informed of the purpose of each court proceeding. The guardian ad litem will assure the child that the child's opinions and feelings will be made known to the court even when not consistent with the recommendations of the guardian ad litem.

\* \* \*

**COMMENT:** To decrease the trauma to the child from attending court hearings, depositions and other proceedings, the guardian ad litem shall explain to the child what is happening and what is expected of the child in all proceedings involving the child.

**(i) Standard 9.0 Participation in Proceedings Outside the Courtroom.** The guardian ad litem shall participate in the development and negotiation of any plans, orders and meetings that affect the best interests of the child. The guardian ad litem shall monitor implementation of service plans and court orders to determine whether services ordered by the court are being provided in a timely manner.

\* \* \*

**COMMENTS:** The guardian ad litem should be present and shall participate in meetings that impact the life of the child, including, but not limited to, permanency planning review team meetings within the educational and mental health settings.

**(j) Standard 10.0 Participation in Court Proceedings.** The guardian ad litem shall appear at all court proceedings to represent the child's best interests. As authorized by law the guardian ad litem may present evidence and ensure that, where appropriate, witnesses are called and examined, including, but not limited to, foster parents and psychiatric, psychological, medical or other expert witnesses. In the event any new developments or significant changes in the child's circumstances occur during the duration of the court



process, the guardian ad litem may cause appropriate pleadings to be filed.

\* \* \*

**COMMENT:** The guardian ad litem should be present at all court proceedings involving the child, which may include depositions and other pre-trial proceedings.

**(k) Standard 11.0 Protecting the Child as a Witness.** The guardian ad litem in a pending case shall protect the interest of the child who is a witness in any judicial proceedings related to the case in which the guardian ad litem has been appointed. The guardian ad litem shall explain, when appropriate, the court proceedings and process to the child.

\* \* \*

**COMMENT:** The guardian ad litem must protect the child from multiple depositions and repetitive examinations that are not in the child's best interests. The guardian ad litem shall request that all parties give notice of any related proceedings or meetings involving the child and for any proposed contact between counsel for a party and a child. In matters for which the guardian ad litem is appointed, the guardian ad litem shall be present during any conferences between counsel for a party and the child.

**(l) Standard 12.0 Conflicts of Interest.** If it is determined that the recommendations of the guardian ad litem are not in agreement with the wishes of the child, the court shall be informed by the guardian ad litem.

\* \* \*

**COMMENT:** There must be no conflict of interest that makes it difficult for the guardian ad litem to present recommendations that are consistent with the child's best interest. At any time during the proceedings in order to avoid a conflict of interest, the guardian ad litem must inform the court of the child's preferences even though they may differ from his or her recommendations.

**(m) Standard 13.0 Recommendations to the Court.** The guardian ad litem shall present recommendations on the basis of the evidence presented and provide reasons in support of these recommendations. When authorized by law, the guardian ad litem may offer evidence to the court. If the guardian ad litem testifies, the guardian ad litem shall be duly sworn as a witness and be subject to cross-examination.

\* \* \*

**COMMENT:** The guardian ad litem shall ensure the court's receipt of independent, objective information. To make a decision that serves the child's best interests, the court must have knowledge of the child's circumstances from all sources including the parents, caseworkers and deputy juvenile officers. If the guardian ad litem has information that he or she believes to be relevant from his or her own independent investigation, the guardian ad litem should testify.

**(n) Standard 14.0 Court Orders.** The guardian ad litem should request orders that are clear, specific and where appropriate, include a time line for the assessment, services, placement, treatment and evaluation of the child and the child's family.

\* \* \*

**COMMENT:** All court orders should clearly reflect the requirements and expectations of each party so that stability for the child is achieved as soon as possible.

**(o) Standard 15.0 Training of Guardian ad litem.** No person shall be appointed as guardian ad litem in any proceeding without first completing twelve hours of specialized training. Thereafter, to continue to be appointed as a guardian ad litem, a person shall complete six hours of specialized training annually. Completion of the training shall be evidenced by an affidavit filed with the appointing court by December 31 of each year. The Court may accept, in lieu of the initial twelve hours of specialized training, an equivalent number of hours experience as guardian ad litem prior to the effective date of the adoption of these standards. The specialized training shall include, but is not limited to, the following topics:

1. Dynamics of child abuse and neglect issues.
2. Factors to consider in the determining of the best interest of the child, including permanency planning.
3. Inter-relationships between family system, legal process and the child welfare system.
4. Mediation and negotiation skills.
5. Federal, state and local legislation and case law affecting children.
6. Cultural and ethnic diversity and gender-specific issues.
7. Family and domestic violence issues.
8. Available community resources and services.
9. Child development issues.
10. Guardian ad Litem Standards.

Programs providing guardian ad litem training to meet the provisions of this standard shall be accredited by the Supreme Court of Missouri's judicial education committee.

\* \* \*

**COMMENT:** Guardian ad litem practice is unique and complex and, as such, requires special education, training and experience. The guardian ad litem needs an understanding of family dynamics and child development in order to evaluate observed and reported behaviors. The guardian ad litem must interpret lengthy case information, which may include references to stress and abuse syndromes, physical determinations of abuse, causal factors in abusive behaviors. The guardian ad litem must be able to understand these references and see how determinations of probable cause are developed, how and why treatment programs are prescribed, and how to incorporate these references into his or her recommendations for the best interest of the child. The guardian ad litem is not

expected to make diagnostic or therapeutic recommendations but is expected to provide an information base from which to draw resources. Therefore, the guardian ad litem must have a working knowledge of family dynamics and be able to compare and relate this concept to the observations, reports and documentation received regarding the child and the child's family.

#### **RULE 23: TRANSCRIPTS**

Court Reporters: In any matter where the record was maintained by a court reporter, all orders for transcripts on appeal or of the testimony of any witness shall be made in writing to that reporter. The reporter's acceptance of service of such order shall be filed with the appropriate clerk. All applications for extension of time to file transcripts shall show the date the same was ordered. Preparation of any transcript on appeal by a court reporter shall not begin until the person ordering such transcript makes a cash deposit with the reporter of such amount as the reporter reasonably estimates such transcript will cost. In the event any cash deposit exceeds the cost of the transcript ordered, the excess shall be refunded to the person who ordered the transcript upon its completion. In the event the deposit is insufficient to pay for a transcript, the remaining unpaid portion of the cost shall be due upon the delivery of the transcript to the person who ordered it prepared. Payment will be made to the reporter who prepared it.

Electronically Recorded Proceedings: Preparation of a typewritten transcript of a record preserved by electronic recording device shall not begin until the clerk is paid a sum sufficient to cover the estimated cost of this work. The estimated cost will be based on rates established by the Office of the State Courts Administrator for transcripts.

Any person wishing to listen to or transcribe a record preserved by electronic recording device must request a copy of the tape(s) to be made by the Office of the State Courts Administrator. The Clerk will process such request upon payment of the appropriate fee.

#### **RULE 24: EXHIBITS**

The attorney is responsible for all exhibits before, during, and after trial. Exhibits should be marked for identification prior to trial. All exhibits offered during the trial, except depositions, shall remain in the custody of the attorneys offering the same and shall at all reasonable times be subject to examination by opposing counsel.

At the conclusion of all trials, except as otherwise provided by the Court, the Clerk is directed to return to the respective parties all exhibits introduced during the trial. Exhibits are to be retained by the respective parties at least until the time for filing of a "Notice of Appeal" has expired or such appeal is taken.

## **RULE 25: FACSIMILE FILINGS**

Applications for search warrants and affidavits in support thereof, arrest warrants, complaints and indictments in support thereof, and other motions, applications, orders, warrants, pleadings, and the like, may be filed by facsimile transmission provided it is not otherwise prohibited by law and further provided that the filing of said document does not require a filing fee or cost deposit. A pleading or other paper so filed shall have the same effect as the filing of an original document, even though it may be required to be verified or submitted by affidavit. A facsimile signature shall have the same effect as an original signature.

(Rule 25 Amended 8/17/98)

## **RULE 26: MOTIONS**

Motions requiring notice and hearing, matters that require testimony for disposition, matters in default, and other proceedings set specifically by the Court, may be heard and disposed of on Law Days.

Other than Motions for Summary Judgment, a notice of hearing shall be filed within twenty (20) days of the filing of any motion. Any motions not so noticed shall be given by the clerk to the assigned judge for ruling.

(Rule 26 added effective 2/10/95)

## **PRE-TRIAL MATTERS**

## **RULE 32: DISCOVERY**

### **32.1 USE OF DISCOVERY AND CERTIFICATION TO CIRCUIT DIVISION (No local rule)**

### **32.2 INTERROGATORIES**

Any party propounding interrogatories in a civil action shall set forth each question in clear and concise language, leaving an appropriate place below each question for an answer or objection to be inserted. The original and a sufficient number of copies for each party to the action shall be served upon counsel for the interrogated party, or the party if not represented. None of these papers are to be filed with the Court at this time. The interrogating party shall prepare a "Certificate of Service" as set out in Appendix B-1, attach a copy to the interrogatories, and file the original "Certificate of Service" with the Court at the same time the interrogatories are mailed. The "Certificate of Service" shall include the following information:

1. The party served.
2. The date and manner of service.
3. The designation of the pleading, as first or second interrogatories, etc.
4. The signature of the attorney or party serving the interrogatories.

### ANSWERS TO INTERROGATORIES:

The answers to interrogatories shall be typewritten in the spaces provided on the interrogatories. In the event an answer is too lengthy to place in the space provided, it shall be attached as an appendix and clearly identified. The interrogated party shall prepare an affidavit to be signed by the appropriate party and attach it as the last page of the interrogatories along with a "Certificate of Service" as set out in Appendix B-2, serving a copy upon each party.

### DOMESTIC RELATIONS CASES:

(See Rule 68.4.6 for Interrogatories in Domestic Relations Cases.)

## **32.3 DEPOSITIONS**

Except as otherwise provided by the Court, all depositions shall be retained by the Clerk in all cases at least until a final decision is rendered by the Court. If an appeal is not taken from said decision, each deposition shall be removed from the custody of the Clerk by the party or parties who offered said deposition at trial within forty-five (45) days after the date of the Court's final decision. If an appeal is taken from said decision, each deposition shall be removed from the custody of the Clerk by the party or parties who offered said deposition at trial within forty-five (45) days after the date of the filing and recording of the mandate of the appellate court finally disposing of the cause, and any such deposition not so removed may be disposed of by the Clerk.

## **32.4 MOTIONS FOR SANCTIONS (See Rule 68.8.i)**

## **32.5 CRIMINAL DISCOVERY**

Motions to Suppress shall state with specificity what evidence is sought to be suppressed and the basis for suppressing said evidence with appropriate authority attached to the Motion.

## **32.6 MOTIONS RELATING TO DISCOVERY**

With respect to all motions relating to discovery proceedings, the Court shall not, except for good cause, hear or consider any such motion unless counsel for the movant shall first advise the court in writing that said counsel has conferred with the opposing counsel in good faith or has made reasonable efforts to do so, but that after sincere efforts to resolve differences have been made, counsel are unable to reach an accord. This written statement shall recite, in addition to the foregoing, the date, time and manner of such conference, and the names of the individuals participating therein, or shall state with specificity the efforts made to confer with opposing counsel with respect to any such motion.

**RULE 33: PRE-TRIAL MOTIONS**

**33.1 HEARING DATES**

All pre-trial motions made by either party shall be filed, noticed and heard no later than seven (7) days prior to the date set for trial unless otherwise set by the Court.

Except for good cause shown, and in unusual circumstances, no motion shall be filed later than seven (7) days before the trial date. Any motion filed later than seven (7) days before the trial date shall be subject to automatic denial. Counsel shall make all reasonable attempts to obtain from opposing counsel his/her available dates to take up, hear, and have the court rule upon Evidential Motions, Pre-Trial Motions, Objections, Trial Settings, Motions in Limine, etc. and then, based upon the availability of the Court, the same shall be set for argument and presentment of evidence, if necessary, before the Court.

(See also Rule 26)

(Rule 33.1 amended effective 1/1/96)

**33.2 BRIEFS IN SUPPORT OF MOTIONS - WHEN REQUIRED**

All motions shall be in writing and accompanied by a written memorandum setting forth reasons in support thereof with citations and points relied upon. Either party thereafter upon seven (7) days notice may call up said motion for hearing. If no memorandum is filed, the court may, after twenty (20) days from the filing of the motion, consider the motion without argument. Time to file written memorandum may be extended by the Court for good cause shown.

(33.2 amended effective 2/10/95)

**33.3 ORAL ARGUMENTS** (No local rule)

**33.4 MOTIONS IN LIMINE**

All motions shall be in writing and accompanied by citations of authority. (See Rules 33.1 and 33.2)

**33.5 NOTICES** (See Rule 26)

**RULE 34: CONTINUANCES**

**34.1 CIVIL CASES** (No local rule)

**34.2 CRIMINAL CASES** (No local rule)

**RULE 35: PRE-TRIAL CONFERENCES**

A pre-trial conference shall be held beginning at 8:30 a.m. or as otherwise designated by the court, on the first day of each jury trial. Attorneys for all parties shall be present and

shall present all available exhibits for possible admission in evidence. The defendant in a criminal case shall attend the pre-trial conference.

(See Rule 68.12 for Domestic Relations cases)

**RULE 36: SETTING CASES FOR TRIAL**

**36.1 REQUEST FOR TRIAL**

All cases pending before Divisions I and II may be set for trial at request of counsel on Law Days or by telephone conference call.

**36.2 DATE OF CALENDAR CALL** (No local rule)

**36.3 PREPARATION OF CALENDAR** (No local rule)

**36.4 CALENDAR CALL** (No local rule)

**36.5 INACTIVE CALENDAR** (No local rule)

**36.6 REVISION OF AND REMOVAL FROM PREPARED CALENDAR**

Jury cases that are assigned for trial may be given a second, or subsequent setting on a trial date. If, five (5) days before the trial date, the case which is set for trial first on that date is still expected to be tried, then all cases set behind such case may be removed from the trial setting upon order of the Court.

**36.7 SPECIAL ASSIGNMENTS** (No local rule)

**RULE 37: DISMISSALS**

**37.1 DISMISSAL DOCKET** (See Rule 8.2)

**37.2 REINSTATEMENT OF CAUSE** (No local rule)

**RULE 41: SETTLEMENT AND DEFAULT**

**41.1 NOTICE OF SETTLEMENT**

The court and the clerk shall be notified promptly by attorneys for all parties if a case is settled.

**RULE 42: DEFAULT** (No local rule)

**TRIALS**

**RULE 51: COURT TRIED CASES**

**51.1 DEFAULT AND UNCONTESTED MATTERS** (No local rule)

**51.2 CONTESTED MATTERS** (No local rule)

**51.3 PREPARATION OF FINDINGS OF FACT AND CONCLUSIONS OF LAW**

In all court-tried cases in which findings of fact and conclusions of law are required or properly requested, the parties, through their attorneys, shall submit proposed findings of fact and conclusions of law as directed by the court.

Any request for written findings of fact and conclusions of law shall be in writing and shall include the specific controverted facts for which findings are required. Missouri Supreme Court Rule 73.01.

**RULE 52: JURY SELECTION**

**52.1 JURY QUESTIONNAIRES**

A jury questionnaire shall be delivered with the summons along with directions to fill it out and return it to the clerk's office at a given date. Jury questionnaires may be inspected by the attorneys at any time that the court is in session.

Attorneys shall not, as part of the voir dire examination, examine a member of the jury panel to elicit the basic information already contained on the jury questionnaire, without the permission of the Court, except as to events that have occurred since the signing of the questionnaire.

**52.2 SUMMONING A JURY** (No local rule)

**RULE 53: JURY TRIALS**

**53.1 INSTRUCTIONS** (No local rule)

**53.2 ARGUMENTS** (No local rule)

**RULE 54: JUDGMENT ENTRY**

**54.1 CONTESTED CASES**

Unless otherwise ordered, the attorney for the prevailing party shall prepare the formal order or judgment and deliver the same to the clerk of the appropriate division within seven (7) days after the order is made or judgment entered, with a copy of the same contemporaneously provided to opposing counsel, and the clerk shall record the same. Objections to same may be made as provided by law, which shall be promptly determined by the Court.

**54.2 DEFAULT OR UNCONTESTED CASES**

In default or uncontested cases counsel for the prevailing party shall present to the Court for its approval the judgment or decree to be entered in the cause. If no judgment or



decree is presented, then the Court will take the matter under advisement until said judgment or decree is submitted, approved, and ordered entered.

## **RULES RELATING TO PARTICULAR ACTIONS**

### **RULE 61: TRANSFER OF CUSTODY, ADOPTION**

#### **61.1 FILING REQUIREMENTS**

Upon the filing of a petition for adoption or for transfer of custody prior thereto, and upon application to the Court, the Court will appoint a guardian ad litem for the child sought to be adopted.

At the time of filing the petition counsel for the petitioners shall file a "Certificate of Adoption" (Vital Statistics Report, Section 193.360 RSMo) on a form to be provided by the clerk and affidavit as required by Section 453.070 RSMo 1989.

#### **61.2 HOME STUDY**

Unless waived pursuant to Section 453.070 RSMo, upon the filing of a "Petition for Adoption", counsel for petitioners shall prepare an "Order for Home Study" to be signed by the Court. The clerk shall notify the appropriate agency to conduct such investigation and file a written report thereof. The Division of Family Services, or other agency designated by the Court, shall initiate an investigation of the suitability of the child for adoption and the suitability of the petitioners as parents for said child.

### **RULE 62: DRIVERS CASES**

#### **62.1 APPLICATIONS FOR HARDSHIP DRIVING PRIVILEGES** (No local rule)

#### **62.2 PETITIONS FOR REVIEW** (No local rule)

#### **62.3 BREATH ALCOHOL CONTENT TEST** (No local rule)

### **RULE 63: ASSOCIATE DIVISION CASES** (No local rule)

### **RULE 64: CASES ARISING UNDER CHAPTERS 207 AND 208 RSMo** **(COMMONLY KNOWN AS TITLE IV-D AND H.B. 601 ACTIONS)** (No local rule)

### **RULE 65: CIVIL COMMITMENT** (No local rule)

### **RULE 66: CONDEMNATION** (No local rule)

**RULE 67: CRIMINAL CASES**

**67.1 PRE-TRIAL RELEASE**

**67.1.1 MOTIONS TO SET BOND AND FOR BOND REDUCTION**

From Monday at 8:30 a.m. until Friday at 4:30 p.m. the Division III, V, and VI judges shall be available for admitting persons to bail, or ruling on bond reduction Motions, in their respective counties. If the Division judge is not available, the request shall be submitted to the Presiding Judge or his designee. The Presiding Judge shall establish and schedule an "on call" judge to be available for admitting persons to bail, or ruling on any bond reduction motions, for Friday at 4:30 p.m. until Monday at 8:30 a.m., and on holidays.

(See other rules for absence of judge)

**67.1.2 DEPOSIT OF OPERATOR'S LICENSE** (No local rule)

**67.2 PRELIMINARY HEARING** (No local rule)

**67.3 GRAND JURY** (No local rule)

**67.4 ATTORNEYS** (No local rule)

**67.5 ARRAIGNMENTS** (No local rule)

**67.5.1 IN GENERAL** (No local rule)

**67.5.2 DATES** (No local rule)

**67.6 DISCOVERY** (No local rule)

**67.7 MOTIONS** (See Rule 26)

**67.8 PLEA BARGAINING**

Divisions I, II, and III do not recognize any plea bargains that involve the amount of the fine or the length of the sentence that a defendant will receive or whether or not he will receive probation.

**67.9 GUILTY PLEA** (No local rule)

**67.9.1 WHERE ENTERED** (No local rule)

**67.9.2 PETITION TO ENTER A PLEA OF GUILTY**

In all felony cases wherein the defendant desires to plead guilty, the defendant and his attorney shall prepare a petition to enter a plea of guilty on a form adopted by this court. The petition to enter a plea of guilty shall be ready to be

executed by the defendant and his attorney in open court. Copies of the petition to enter plea of guilty form may be obtained from the circuit clerk's office.

**67.10 CALENDAR** (No local rule)

**67.11 PROBATION AND PAROLE** (No local rule)

**RULE 68. DISSOLUTION OF MARRIAGE, LEGAL SEPARATIONS, & MODIFICATIONS, AND OTHER FAMILY LAW CASES**

**68.1 FILING REQUIREMENTS**

**68.1.1 Vital Statistics Report.** At the time of filing the petition a Certificate of Dissolution of Marriage (Vital Statistics Report), as required by Section 193.360 RSMo, and a Case Information Sheet shall be filed on a form provided by the clerk. In cases where there are minor children the information required by Section 452.480 RSMo shall be furnished in the original pleading.

**68.1.2 Parenting Plan.** In all cases wherein a parenting plan is required, the party submitting a proposed parenting plan shall, either: Submit a fully completed Form 68-A, or submit another parenting plan together with a fully completed parenting plan checklist (Form 68-B).

**68.2 INTERIM FAMILY LAW ORDER**

In all proceedings for Dissolution of Marriage or Legal Separation the Court hereby enters the Interim Family Law Order (Form 68-C). In any such proceeding the Clerk of the Court shall attach the Interim Family Law Order (Form 68-C), to the Summons or serve a copy of the Interim Family Law Order (Form 68-C) on the parties at the addresses specified in the petition. Proof of mailing by regular mail or delivery by the clerk shall constitute notice as required in this rule.

**68.3 FORMS OF JUDGMENT**

See Form 68-D, Form 68-E, and Form 68-F for format containing minimal information needed for the entry of an appropriate judgment.

## **68.4 FILING OF FINANCIAL STATEMENTS**

**68.4.1 Dissolution Actions - Statements of Property & Income Required.** In all actions for Dissolution of Marriage or Legal Separation, a Statement of Marital and Non-marital Assets and Debts (Form 69-G) and a Statement of Income and Expenses (Form 68-H-1 or Form 68-H-2) shall be completed by each party, executed under oath, filed with the Court, and served on the opposing party by the sixty (60) day Call Docket.

**Note:** The judges of this circuit prefer the use of Form 68-H-1.

### **68.4.2 Motion to Modify/Paternity - Statements of Property & Income Required.**

In all Motions to Modify Child Support, Alimony or Maintenance, and actions to establish Paternity and Child Support, a Statement of Income and Expenses (Form 68-H) shall be completed by each party, executed under oath, filed with the Court, and served on the opposing party by the sixty (60) day Call Docket.

**68.4.3 Supplemented Statements of Property and Income Required.** If any material changes occur prior to the trial date, the information provided on Forms 68-G and 68-H shall be updated no less than fifteen (15) days prior to trial and served on the opposing attorney with a Certificate of Service of same filed with the Court.

**68.4.4 Sanctions May Be Ordered - When.** If a party fails to timely file or update Forms 68-G or 68-H the judge may, at his or her discretion, order sanctions against that party such as prohibiting the party so failing from presenting affirmative evidence as to the values of the property, income or expenses which were not provided to the opposing party.

**68.4.5 Consolidated Statement Required - Time.** In every contested case in which property and/or debts are in issue, thirty (30) days prior to trial date Form 68-I shall be completed by Petitioner and forwarded to Respondent for completion. Respondent shall complete the original form at least fifteen (15) days prior to trial date and immediately forward a copy to Petitioner. The original form shall be submitted to the Court on hearing date. If either party does not complete Form 68-I in a timely manner then that party shall not be allowed to offer any values for property listed therein.

### **68.4.6 Standard Discovery for Use in Contested Family Law Actions**

**68.4.6.1 Dissolution - Standard Interrogatories Required.** In all actions for Dissolution of Marriage or Legal Separation, the court en banc has approved standard opening Interrogatories (Form 68-J). At the sixty (60) day Call Docket counsel and unrepresented parties shall appear and advise if mediation should be ordered or the discovery process to begin. When the discovery process begins **Form 68-J** shall be used and the parties shall immediately exchange the following documents:

(a) Complete copies of any federal and state income tax returns (including all schedules, W-2 and 1099 forms) for the preceding 3 calendar years;

(b) Complete copies of the last (six) 6 pay periods "paycheck" stubs or other evidence of wages, salaries or tips if no "paycheck" stub is issued;

(c) Complete copies of any benefit statements wherein a party claims an interest in any form of pension, profit-sharing, or other retirement plans whether vested or non-vested;

(d) Copies of any deeds to real estate, notes, deeds of trust, or leases;

(e) Description of all titled motor vehicles, trailers, etc. including VIN;

(f) Any other evidence of ownership of an asset or interest in an asset claimed as marital or separate property;

(g) Copies of most recent statement of ownership and value for any life insurance policies insuring the life of either party or a minor child involved in the proceedings **which has a cash value**;

(h) Complete copies of any appraisals relating to any marital or separate property done within 1 calendar year;

(i) Complete copies of any trusts where a party is either the grantor or current income beneficiary of the trust;

(j) Copies of partnership agreements and/or stock certificates in any corporation in which you hold an interest, along with the most recent statement of assets and liabilities;

**UNLESS:**

(a) both parties stipulate in writing the case is not contested; **or**

(b) no answer or pleadings are filed within 30 days from the date of service of legal process on the adverse party; **or**

(c) the adverse party formally files a verified entry of appearance and no other responsive pleading.

**68.4.6.2 Motion to Modify - Standard Interrogatories Required.** In all Motions to Modify Child Support and/or Maintenance, and actions to establish Paternity and Child Support, the court en banc has approved standard opening Interrogatories (Form 68-K) At the sixty (60) day Call Docket counsel and unrepresented parties shall appear and advise if mediation should be ordered or the discovery process to begin. When the discovery process begins Form 68-K shall be used and the parties shall exchange the following documents:

- (a) Complete copies of any federal and state income tax returns (including all schedules, W-2 and 1099 forms) for the preceding 3 calendar years;
- (b) Complete copies of the last (six) 6 pay periods "paycheck" stubs or other evidence of wages, salaries or tips if no "paycheck" stub is issued;
- (c) Complete copies of any trusts where a party is either the grantor or current income beneficiary of the trust;
- (d) Copies of partnership agreements and/or stock certificates in any corporation in which you hold an interest, along with the most recent statement of assets and liabilities;

**UNLESS**

- (a) both parties stipulate in writing the case is not contested; **or**
- (b) no answer or pleadings are filed within 30 days from the date of service of legal process on the adverse party; **or**
- (c) the adverse party formally files a verified entry of appearance and no other responsive pleading.

**68.4.6.3 Parties Required to Exchange Documents.**

(See Rules 68.4.6.1 and 68.4.6.2 above)

**68.4.6.4 Certificate of Service Required.** When the interrogatory answers and documents specified in 68.4.6.1 and 68.4.6.2 are exchanged, the delivering party shall immediately file with the Court a certificate of service (Form 68-L) identifying the interrogatories answered and the documents exchanged, the fact that a document may not now exist or has never existed, or that if a document exists, but is not in the possession of the exchanging party, the name and current address of the person who has possession of the document;

**68.4.6.5 Requested Information Shall be Updated Prior to Trial.** All information requested in the above interrogatories and document requests shall be updated within fifteen (15) days prior to trial if any material changes occur prior to the trial date except significant changes such as employment, income or expert witnesses which should be updated immediately;

**UNLESS:**

- (a) both parties stipulate in writing the case is not contested; **or**

(b) no answer or pleadings are filed within 30 days from the date of service of legal process on the adverse party; **or**

(c) the adverse party formally files a verified entry of appearance and no other responsive pleading.

#### **68.4.6.6 Court May Authorize Additional Discovery and Extend time for Filing**

For good cause shown, the Court, upon written motion and without hearing, may authorize additional discovery. For good cause shown, the Court, upon written motion and without hearing, may extend the time for exchanging the documents required in Rule 68, or may waive the exchange of documents entirely but only for good cause shown.

#### **68.4.6.7 Sanctions May Be Imposed for Failure to Comply**

Failure to timely comply with Rule 68 discovery shall, at the discretion of the Judge and upon written motion of either party, result in such sanctions as are provided by law, to include, but not limited to, preventing the non-compliant party from presenting affirmative evidence as to the matters set forth in the documents to be exchanged or answers to interrogatories and/or the award of reasonable attorney fees and/or costs against the non-compliant party.

#### **68.4.6.8 If Mediation is Ordered**

Upon mediation being ordered, each party shall bring to the first mediation session a completed Form 68-G and Form 68-H for use in the mediation process. Upon completion of all mediation sessions the mediator shall forward to the Court a letter indicating whether or not mediation was successful and a separate summary letter to counsel of record of items (if any) negotiated and agreed to by the parties.

### **68.5 Pro Se Litigant Awareness Program and Pro Se Pleadings, Forms and Judgments**

Every Petitioner not represented by counsel who participates in a proceeding for dissolution of marriage, legal separation, parentage, or modification of a judgment in any such proceeding, **upon filing any motion or petition**, shall complete the Litigant Awareness Program which is available on the website of the Supreme Court at address: (<http://www.courts.mo.gov/page.asp?id=4092>), unless waived by the Court, and shall present to the Clerk with the petition the Certificate of Completion (Form 68-U).

Every Respondent or Third Party not represented by counsel who participates in a proceeding for dissolution of marriage, legal separation, parentage, or modification of a judgment in any such proceeding, **after filing an Entry of Appearance or Answer in a case**, shall complete the Litigant Awareness Program which is available on the website of the Supreme Court at address: (<http://www.courts.mo.gov/page.asp?id=4092>), unless waived by the Court, and shall present to the Clerk with the Entry of Appearance or Answer the Certificate of Completion (Form 68-U).

Pro se Petitioners and Respondents shall use the pleadings, forms, and proposed judgments adopted by this circuit, which are contained in Local Court Rule 68 and available on line, or the pleadings, forms, and proposed judgments approved by the Missouri Supreme Court.

## **68.8 Entry of Judgment Upon Affidavit – Requirements**

**68.8.1 Final Orders Entered - When.** Final orders in a proceeding for Dissolution of Marriage, Legal Separation, Motions to Modify, and actions for Declaration of Paternity, may be entered upon the affidavit of either or both parties when:

(a) There are no minor children of the parties and the female party is not pregnant, and the adverse party has been served in a manner provided by Missouri Rules of Civil Procedure or has formally filed a verified entry of appearance; **or**

(b) There are minor children, one of the parties is represented by counsel, a parenting plan is submitted, Supreme Court Rule 88.01 Form 14 is followed, and the adverse party has been served in a manner provided by Missouri Rules of Civil Procedure or has formally filed a verified entry of appearance.

**68.8.2 Affidavit - Filing.** If one party desires to submit the matter for entry of final orders upon an affidavit, the submitting party shall file an affidavit (Form 68-M), and a proposed judgment, including a parenting plan and a Civil Procedure Form 14 if required.

## **68.11 Temporary Child Support**

**68.11.1 Either Parent May Move for Temporary Child Support.** In an original proceeding for Dissolution of Marriage or Legal Separation only, when there are minor children of the marriage who are subject to the jurisdiction of the court, either parent may move for an Order for Temporary Child Support not less than thirty (30) days from service and provided the adverse party has been served in a manner provided by Missouri Rules of Civil Procedure, or has formally filed a verified entry of appearance, or has filed a responsive pleading.



**68.11.2 Verified Motion for Temporary Child Support.** The Movant shall file a verified Motion for Temporary Child Support which shall set forth clearly and concisely the grounds for such motion. The motion shall include a fully completed Civil Procedure Form 14 in accordance with Supreme Court Rule 88.01.

**68.11.3 Copy of Motion to Other Parent.** The Movant shall then provide the other parent, or his or her attorney, as may be appropriate, with a copy of such Motion for Temporary Child Support by regular mail, by personal service, or by Facsimile, and shall provide a certificate of service.

**68.11.4 Time to Respond - Include Form 14.** The other parent shall have fifteen (15) days from the date of such certification to respond to such motion. Any response shall be verified and shall include a fully completed Civil Procedure Form 14.

**68.11.5 Court May Rule on Motion On Verified Motions and Response.** Within ten (10) days after the date upon which the response is due, the Court may rule upon such motion based solely upon the verified motion and any verified response thereto, applying the principles set forth in Missouri Rule of Civil Procedure 88 and Chapter 452, RSMo. Any orders issued under this rule shall be enforceable by contempt proceedings and shall remain in effect until further order of the Court.

**68.11.6 Court May Require Hearing.** If the Court determines that it is impracticable to make a determination based upon the verified motion and the verified response thereto, then the Court may set the matter down for expedited hearing, which hearing shall be held within twenty (20) days after the date upon which any response is due except for good cause shown. The only issues which shall be considered by the Court at such expedited hearing shall be those relating specifically to temporary child support. The Court shall issue its order under this rule as soon as practical thereafter.

**68.11.7 The Time Shall Not Be Stayed or Tolloed.** The time frames specified in this rule shall not be stayed or tolled by the filing of any pleadings, proceedings or other motions, specifically including motion for change of temporary custody of the minor children of the parties.

## **68.12 DOMESTIC CALL DOCKET AND PRE-TRIAL CONFERENCE**

**68.12.1 Call Docket.** Upon filing of a domestic relations case the Clerk shall place the matter on the Court's first docket sixty (60) days after filing for review. **Counsel and unrepresented parties shall appear at said time and advise the Court of the status of the case. A Discovery or Mediation Order may be entered that date.**

**68.12.2 Trial Setting.** No case shall be set for a contested hearing:

.1 Until all discovery is complete and all required documents filed (or there is a written waiver by the Court due to lack of cooperation by one of the parties or discovery schedule ordered);

.2 **If there are children** and mediation has **not** been completed or ordered, Form 68-O waiving mediation shall be filed;

.3 **If venue is improper**, Form 68-N shall be filed.

**68.12.3 Pre-Trial Conference.** If a pre-trial conference is ordered by the Court **the parties and their counsel shall appear**. The conference will be held for the following purposes:

- (a) To decide on the amount of time needed for the proper conduct of the trial;
- (b) To determine the agreed upon and contested issues in the cause;
- (c) To exchange any updated disclosure and file required documents.

### **68.13 DISMISSAL BY COURT**

Without notice, the Court may dismiss any family law case or motion which is not tried or set for trial after the expiration of six (6) months from the filing date.

### **RULE 69: MUNICIPAL DIVISION**

Municipal ordinance violation cases shall be filed with the municipal division clerk when that municipality has made provisions for its own municipal judge as provided by law. If the municipality has not made provision for its own judge, the filing shall be in the appropriate Associate Division as set out in Rule 4 above.

### **RULE 70: PARTITION** (No local rule)

### **RULE 71: ADMINISTRATIVE REVIEWS** (No local rule)

### **RULE 72: PROBATE** (As established by the Probate Divisions)

#### **72.1 ADVERSARY PROCEEDINGS**

All adversary proceedings, as defined in Section 472.140 and Section 472.141 RSMo., in any Probation Division of this Circuit shall be governed by the following Missouri Rules of Civil Procedure: 41-54; 56-81; and 85-100.

### **RULE 73: SMALL CLAIMS** (No rule, see assignment rules above)

### **RULE 74: TRUST ESTATES** (No local rule)

#### **74.1 INVENTORY** (No local rule)

#### **74.2 REPORTS** (No local rule)

#### **74.3 RECORD** (No local rule)

**74.4    AUDIT    (No local rule)**

**POST-TRIAL**

**RULE 81:    EXECUTION**

Executions shall not be issued by the clerk except upon written application signed by the judgment-creditor or attorney. The written application shall contain the following:

- a.    Style and number of case in which judgment was obtained;
- b.    Date judgment was entered or last revived;
- c.    The amount of the original judgment, the amount of accrued interest on the original judgment, and the amount of the judgment and interest still unsatisfied;
- d.    The full name and current address, if known, of the judgment-debtor;
- e.    A full description of the property to be executed on;
- f.    The return date on the execution (30, 60, or 90 days);
- g.    Any special instructions to be provided the Sheriff performing the execution.

Each party filing an execution shall deposit with the clerk the minimum sum of Thirty-five Dollars (\$35.00) or such higher amount as may be determined by the clerk to secure the payment of Sheriff's fees and additional costs.

**RULE 82:    GARNISHMENTS**

**82.1**

In addition to the informational requirements of Rule 81, the following information must be supplied for a garnishment:

- a.    The name and address of garnishee.
- b.    The percentage amount of wages to be withheld pursuant to the Federal Garnishment Law, 15 USCA 1673(a),(b).

**82.2**

Each judgment creditor who files a garnishment shall at that time deposit the sum of Thirty-five Dollars (\$35.00) with the clerk in addition to any other deposits that may be required. This amount shall constitute the fee to be paid to the garnishee for answering the interrogatories to said garnishee upon filing of an appropriate motion. Whenever said fee is allowed by the Court it shall be added to the amount of the judgment due. In the event no motion for payment of such a fee is filed and sustained this amount shall be returned to the judgment creditor, less any unpaid costs or fees outstanding which shall be retained by the clerk and disbursed as required by law. After payment to the creditor of the amount of the judgment, interest and costs and payment of any fee allowed any balance retained by the clerk shall be returned to the judgment debtor.

**RULE 83: JUDICIAL SALE**

The clerk shall collect One Hundred Seventy Dollars (\$170.00) from any applicant for a judicial sale, which sum shall be applied for payment of sheriff's fees and costs in connection with judicial sales of real or personal property. Any sum not used by the sheriff shall be refunded by the clerk to the payer within thirty (30) days after said sale.

**INTERNAL ORGANIZATION**

**RULE 100: JUDGES**

**100.1 PRESIDING JUDGE**

**100.1.1 ELECTION**

The circuit and associate circuit judges shall elect a Presiding Judge who must be a Circuit Judge from within this circuit. The meeting shall be held in the month of November or December of each even numbered year. The term shall be for two years beginning in January of the next following odd numbered year.

The Presiding Judge shall be elected by secret ballot and must be elected by a majority of those present at the meeting.

A circuit judge shall not be elected to a consecutive term as Presiding Judge unless by a 5/6 vote of all judges.

A quorum for any en banc meeting is hereby established as four (4) judges present in person with at least one being from Bollinger or Perry County.

**100.1.2 DUTIES OF PRESIDING JUDGE**

The Presiding Judge is the general administrative authority for the Court. In this function he shall: (a) preside at all Court en banc meetings; (b) supervise and appoint any needed committees; (c) supervise preparation of the budget; (d) coordinate all duties and vacations of personnel; (e) handle media and government contracts; and (f) standardize procedures between divisions.

The Presiding Judge has the authority to assign cases to judges and judges to divisions however a case shall not be assigned contrary to Supreme Court Rule, Missouri Law, or Local Court Rule.

The Court shall meet en banc bi-monthly on even numbered months at such place and time as designated by the Court. No meeting shall be cancelled except by a majority vote of the judges. Additional meetings of the Court en banc may be called by the Presiding Judge, or by any two judges giving written notice. If any judge so requests a meeting will be held on the record. The Presiding Judge has one vote and a majority vote rules. The Presiding Judge may call a special term of Court. The Presiding Judge may appoint a secretary and any additional personnel to aid in the judicial business of the circuit.

In the absence of the Presiding Judge from the Circuit, the other Circuit Judge shall be the Acting Presiding Judge. In the event both circuit judges will be absent from the Circuit, the Presiding Judge may appoint one of the Associate Circuit Judges as Acting Presiding Judge.

(Amended 1/24/97 effective immediately)

## **100.2 LOCAL COURT RULES**

### **100.2.1 FORMULATION**

New Local Court Rules and amendments to existing rules may be made from time to time by the court en banc.

### **100.2.2 PUBLICATION**

The circuit clerk of each county shall forward a copy of these rules to each attorney or law firm with offices in that county and shall keep copies in the clerk's office for distribution to other counsel.

## **100.3 LIBRARY FUND**

Pursuant to Sections 514.440 and 514.450 RSMo 1996, a surcharge of \$15.00 on all civil cases filed in the circuit court for the maintenance and upkeep of the law library in each respective county is hereby established. This fee shall not apply to proceedings when costs are waived, or which are to be paid by the county, or state, or any city.

SEMO Lawyers Library, Inc. is designated as the treasurer of the Cape Girardeau County Law Library Fund.

The Associate Circuit Judge for Bollinger County and the Prosecuting Attorney are designated as the co-treasurers of the Bollinger County Law Library Fund.

The Associate Circuit Judge for Perry County is designated as the treasurer of the Perry County Law Library Fund.

Each clerk who is responsible for the collection of said surcharge shall pay out said funds as set out in Section 514.450 RSMo 1996.

(Amended 11/6/96 effective 1/1/97)

## **RECORDS AND FILES**

### **100.4 STORAGE OF RECORDS** (No local rule)

- 100.4.1 REPRODUCTION, PRESERVATION, ARCHIVAL STORAGE AND DISPOSAL OF ORIGINAL CIRCUIT COURT FILES AND THEIR CONTENTS** (No local rule but see Rules 24 and 32.3)
- 100.4.2 REPRODUCTION AND PRESERVATION OF COURT RECORDS OTHER THAN FILES AND THEIR CONTENTS** (No local rule)
- 100.4.3 RESPONSIBILITY FOR INDEXING AND PRESERVING COURT REPORTER NOTES** (No local rule)
- 100.4.4 IDENTIFICATION OF REPORTER' NOTES** (No local rule)
- 100.4.5 INDEX** (No local rule)
- 100.4.6 STORAGE OF RECORDS** (No local rule)
- 100.4.7 NOTES OF SUBSTITUTE REPORTERS** (No local rule)
- 100.4.8 STORAGE OF NOTES UPON RETIREMENT, TERMINATION, OR DEATH OF COURT REPORTER** (No local rule)
- 100.4.9 BOXING AND STORING OF OLD NOTES** (No local rule)
- 100.4.10 RESPONSIBILITY FOR FURNISHING MATERIALS AND SPACE FOR STORAGE OF COURT REPORTER** (No local rule)
- 100.4.11 PROCEDURE FOR EXPUNGING AND CLOSING CRIMINAL RECORDS** (No local record)

### **100.5 CLERK'S DUTIES**

#### **100.5.1 MONIES PAID INTO COURT**

No Clerk shall accept for filing in any criminal or civil case a bond assignment.  
(Adopted 12/20/07, effective January 1, 2008.)

**100.6      SELECTION OF VENIREMEN**

Selection of veniremen shall be made by the Jury Commission Board of each county in accordance with Chapters 494 and 495 RSMo.

**RULE 101:    ADMINISTRATIVE RULES**

**101.1      TIME STANDARDS**

Pursuant to Missouri Supreme Court Administrative Rule 17, as amended, the time standards as set forth on Table 1 are hereby adopted as the Time Standards for the 32nd Judicial Circuit until further order of the Court *en banc*.

(Adopted 11/6/96, effective 1/1/97)

**APPENDIX A**

CIRCUIT COURT OF \_\_\_\_\_ COUNTY, MISSOURI

(Name)	)	
(Address)	)	
(City)	)	
	)	Plaintiff,
	)	
vs.	)	Case No. _____
	)	
(Name)**	)	
(Address)***	)	
(City)	)	
	)	Respondent.

**CAUSE\***

Signed (Attorney of Record)  
(Address)  
(Telephone)  
(Missouri Bar No.)

- \* If the Party is required to state the nature of the cause of the action on the pleading it should be stated here using the codes on attached list, if applicable.
- \*\* If a corporate defendant also list officer or registered agent with address and telephone number on the petition. If it is a foreign corporation also list address of local office and name of officer in charge on the petition.
- \*\*\* If a defendant has a rural route, give directions or a P.O. Box number on the petition.



(To be filed with the Court upon mailing of Interrogatories)

**CERTIFICATE OF SERVICE**

The original and \_\_\_\_\_ copies of the foregoing interrogatories were served by (mailing, delivery, etc.) upon \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

(Signature)

Attorney for \_\_\_\_\_

(To be attached to the Original Interrogatories when answered and mailed to the Court.)

**CERTIFICATE OF SERVICE**

Original copy of the completed interrogatories filed with the Court and copies thereof mailed or delivered to: \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

(Signature)

Attorney for \_\_\_\_\_